

United States District Court
Northern District of California

****PREVIOUSLY E-FILED IN THE MDL DOCKET, 15-MD-02617-LHK, ON JULY 6, 2015 (ECF NO. 16)****

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE ANTHEM, INC. DATA BREACH
LITIGATION

Case No. 15-MD-02617-LHK

**ORDER RE PRELIMINARY CASE
MANAGEMENT CONFERENCE**

By order of the Judicial Panel on Multidistrict Litigation (“JPML”), ECF No. 1, the instant actions were transferred and assigned to this Court for coordinated or consolidated pretrial proceedings under 28 U.S.C. § 1407. Additional tag-along actions may be transferred.

Because these cases merit special attention as complex litigation, the Court hereby
ORDERS:

1. Preliminary Case Management Conference.

1.1. *Date, Time & Location.* Counsel for all parties shall appear for a preliminary case management conference (“CMC”) on Friday, July 31, 2015, at 1:00 p.m. in the ceremonial courtroom on the 5th floor of the Robert F. Peckham Federal Building and U.S. Courthouse located at 280 South 1st Street, San Jose, California 95113. To facilitate matters, counsel may check in with the Courtroom Deputy beginning at 12 noon.

1.2. *Purpose.* The purpose of the preliminary CMC is for the Court to learn about the nature and scope of this litigation, and for the Court to begin the process of appointing lead plaintiffs' counsel. The Court will not set a case schedule at the preliminary CMC. The Court will do so after lead plaintiffs' counsel has been appointed.

2. *Preparations for the Preliminary Case Management Conference.*

2.1. *Rules.* Counsel are expected to be familiar with the Manual for Complex Litigation, Fourth. Counsel are also required to review the Civil Local Rules for the Northern District of California, any applicable General Orders, and this Court's Standing Orders, all of which can be found on the Northern District of California website at <http://www.cand.uscourts.gov/lhk>.

2.2. *Counsel Meet and Confer.* Before the preliminary CMC, counsel shall confer and seek consensus to the extent possible concerning the immediate issues and any other matters they wish to bring to the Court at this time. For plaintiffs, the Court designates:

Eve H. Cervantez
Altshuler Berzon LLP
177 Post Street, Suite 300
San Francisco, CA 94108

Andrew N. Friedman
Cohen Milstein Sellers & Toll PLLC
1100 New York Avenue, Suite 500
Washington, DC 98104

These temporary designations are not a precursor of future appointments, but simply a means to initiate the process. The Court expects that all counsel desiring to do so will have a full opportunity to participate in the discussion and the report which the Court requests.

2.3. *Preliminary Joint Case Management Statement.* Counsel listed above, in conjunction with counsel for Anthem, will submit to the Court by Tuesday, July 28, 2015, a preliminary joint case management statement not to exceed fifteen (15) pages in length. The joint statement should be filed in the master docket (No. 15-MD-02617) and include the following:

- A brief discussion of the facts and the critical legal issues. Any potentially dispositive issues should be separately identified. These statements will not be binding, will not waive claims or defenses, and may not be offered into evidence against a party in later proceedings.
- A proposed discovery plan, including a list of any outstanding discovery.
- A list of all pending motions.
- A list of all known related cases pending in state or federal court and their current status.

• A list of all parents, subsidiaries, and companies affiliated with the corporate parties and of all counsel associated in the litigation to help the Court identify any problems of recusal or disqualification.

The Court urges counsel to set forth their views in a single joint report that notes both consensus views and divergent views where appropriate.

3. *Appointment of Lead Plaintiffs' Counsel.* The Court will hold a hearing on September 10, 2015, at 1:30 p.m. to appoint lead plaintiffs' counsel. The Court will only consider attorneys who have filed an action in this litigation. Motions to serve as lead plaintiffs' counsel are due no later than August 20, 2015, and shall not exceed ten (10) pages in length. Oppositions are due August 27, 2015, and shall not exceed five (5) pages in length. Replies are due September 3, 2015, and shall not exceed five (5) pages in length. The chief criteria for these appointments are:

- Knowledge and experience in prosecuting complex litigation, including class actions;
- Willingness and ability to commit to a time-consuming process;
- Ability to work cooperatively with others; and
- Access to sufficient resources to prosecute the litigation in a timely manner.

Where appropriate, applications should also set forth attorney fee proposals, rates, and percentages that applicants expect to seek if the litigation succeeds in creating a common fund.

4. *Interim Measures.*

4.1. *Admission of Counsel.* All attorneys admitted to practice and in good standing in any United States District Court are admitted *pro hac vice*. Association of local counsel is not required. If not already registered, counsel will need to register for electronic filing (CM/ECF) in the Northern District of California. (More information can be found on the Court's website.)

4.2. *Preservation of Records.* Until the parties reach agreement on a plan for preservation of records, all parties and their counsel must preserve all evidence that may be relevant to these actions.

4.3. *Stay of Motions Practice.* Except for motions for emergency relief, no motion shall be filed until and in accordance with the case schedule.

4.4. *Orders of Transferor Courts.* All orders by transferor courts imposing dates for pleading or discovery are vacated.

4.5. *Chambers Mailbox.* The Court maintains an electronic mailbox for communications with the Courtroom Deputy: lhkcrd@cand.uscourts.gov. The only email communications that the parties or other interested individuals may have with the Courtroom Deputy are non-substantive scheduling communications and must include opposing counsel and

temporary plaintiffs' counsel as designated in section 2.2 then lead plaintiffs' counsel when appointed pursuant to section 3. All substantive issues must be discussed in filings with the Court.

4.6. *Website*. The Court intends to set up a website specific to this case.

4.7. *Filings*. All filings should be in the master docket (No. 15-MD-02617).

5. *Later Filed Cases*. This Order shall also apply to related cases later filed in, removed to, or transferred to this Court.

IT IS SO ORDERED.

Dated: July 6, 2015



LUCY H. KOH
United States District Judge

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Northern District of California